



PO BOX 201706  
Helena, MT 59620-1706  
(406) 444-3064  
FAX (406) 444-3036

## Revenue Interim Committee

### 66th Montana Legislature

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JARET COLES, Staff Attorney  
LAURA SHERLEY, Secretary

TO: Committee Members

FROM: Jaret Coles, Staff Attorney

RE: Administrative Rule Activity

DATE: March 4, 2020

## Department of Revenue

*Proposal and Adoption Notices are available on the Internet:*

Department of Revenue notices can be found on the Secretary of State's website at <http://www.mtrules.org/>. Under the Montana Administrative Register heading, type the number "42" in the "Search by Notice No." box and click on the "Go" icon.

### Notice of Proposed Rules:

Property Tax -- Tax Incentive for New or Expanding Industry -- [Senate Bill No. 318](#) (2019). [MAR 42-1018](#). A public hearing is not contemplated and the public comment period ends on March 30, 2020. The Department proposes to amend one rule. The proposed amendment replaces the terms "industrial plant owner," "industrial plant," or "plant owner" with "applicant," "applicant's property," and "property" since the tax incentive can be applied to commercial, industrial, or centrally assessed taxpayers' new or expanding industries.

### Notice of Adopted Rules:

Income Tax -- Form MW-4 -- Montana Employee's Withholding Allowance and Exemption Certificate, Wage Withholding Exemptions, and Tax Treatment of Interest on Certain Government Obligations. [MAR 42-1001](#). Adopted December 17, 2019. A public hearing was held and no public comment or testimony was received. The Department amended 11 rules. The statement of reasonable necessity provided the amendments were necessary because the federal

government has made substantial changes to federal tax law. To avoid discrepancies in wage withholding collection and provide employers with the means to fulfill their withholding requirement, the Department determined it was necessary to develop a new form, Montana Employee's Withholding Allowance and Exemption Certificate (Form MW-4), for employees to claim allowances for Montana wage withholding purposes in a manner that remains consistent with the method used prior to the 2018 tax year. The Department also included all applicable employee wage withholding exemptions that require employer notification on Form MW-4. Lastly, the Department amended two rules regarding tax treatment of interest on certain government obligations to differentiate for withholding agents those obligations that may involve tax-exempt interest from other types of obligations, such as guarantees, which may give rise to taxable income.

Property Tax -- Statutory Deadlines for Request for Informal Classification and Appraisal Reviews -- [House Bill No. 514](#) (2019). [MAR 42-1006](#). Adopted January 7, 2020. A public hearing was held and no public comment or testimony was received. The Department amended one rule as proposed. The amendment implements submission deadlines that define the Department's timely receipt of a taxpayer's "check the box" request. Upon receipt of the taxpayer's returned coupon, the Department will mail a Form AB-26 to the taxpayer with a cover letter stating the Form AB-26 must be postmarked or hand-delivered to the Department within 15 business days of the date on the letter or within 30 days of the date shown on the taxpayer's classification and appraisal notice, whichever is later.

Property Tax -- Trended Depreciation Schedules for Valuing Personal Property. [MAR 42-1007](#). Adopted January 7, 2020. A public hearing was held on November 13, 2019. No proponents or opponents were present, no proponent or opponent oral testimony was received, and the Department received no written comments in support. One person appeared as an interested person to the rulemaking and provided oral and written comments on behalf of an association. Additionally, written comment was also received by the Department from Representative Llew Jones. On December 27, 2019, the Department filed an amended notice to address errors in the Industrial Machinery and Equipment Trend Table Lookup and allowed additional time for the public to provide oral or written comment to the rulemaking from November 20, 2019, until January 3, 2020.

The Department amended four rules as proposed. One of the amendments addresses revisions to personal property valuation methodologies when a value is not available through national publications. Another amendment was housekeeping in nature. The last two amendments incorporated by reference personal property depreciation schedules and trend tables that are on the Department's web page for both equipment and industrial machinery, effective January 1, 2020.

Based on public comment and feedback, the Department indicated that it revised the schedules' values, where appropriate, to help alleviate taxpayer concerns about increases in value.

Property Tax -- Property Tax Assistance Program and Montana Disabled Veteran Property Tax Assistance Program. [MAR 42-1010](#). Adopted December 17, 2019. A public hearing was held and no comments or testimony was received. The Department amended four rules and repealed two rules as proposed. The amendments added inflation adjustment information and provided that the exemption for the intangible land value property tax assistance program is only applied to 5 acres regardless of the parcel's size. Lastly, the repeals eliminated separate rules for the PTAP and MDV programs to consolidate this similar subject matter.

Property Tax -- Specialty and Unique Crops -- Additional Requirements for Agricultural Land Classification -- [Senate Bill No. 69](#) (2019). [MAR 42-1011](#). Adopted January 7, 2020. A public hearing was held and no comments or testimony was received. However, the Department received written comments requesting an additional change to the rule from an interested person.

The Department amended one rule as proposed. The amendment implements [Senate Bill No. 69 \(2019\)](#), regarding provisional agricultural classification for certain orchards, vineyards, and Christmas tree farms.

The commenter indicated additional amendments were necessary to eliminate unnecessary, inconsistent, and potentially confusing language with section [15-7-202](#), MCA, as amended by [Senate Bill No. 69 \(2019\)](#), as it relates to the gross income requirement for agricultural parcels of less than 20 acres. Further, the commenter offered that a landowner does not market gross income. Section [15-7-202](#)(1)(b)(i)(A) and (2)(a), MCA similarly state that " . . . [t]he owner. . . . markets not less than \$1,500 in annual gross income from the raising of agricultural products." As such, the Department indicated it was leaving in references to "marketing" to be consistent with the language in statute.

Property Tax -- Agricultural Land Valuation -- Housekeeping. [MAR 42-1012](#). Adopted January 21, 2020. A public hearing was held and no comments or testimony was received. The Department adopted one new rule, amended one rule, and repealed four rules. The proposal was generally housekeeping in nature. The Department observed that certain rules contained redundancies to statute, followed outdated language usage or writing styles, and, in some cases, did not reflect current Department practices.

Property Tax -- Mobile Home Exemption Ownership Determination -- [Senate Bill No. 204](#) (2019). [MAR 42-1013](#). Adopted January 21, 2020. A public hearing was held and no comments or testimony was received. The Department adopted one new rule as proposed. The new rule implements [Senate Bill No. 204](#) (2019) by providing an exemption from taxation for mobile

homes, manufactured homes, or housetrailer that possess certain attributes in age, value, and classification.

Corporate Income Tax -- Net Operating Loss Carryback and Water's Edge Rules Revisions.

[MAR 42-1015](#). Adopted February 18, 2020. A public hearing was held and no comments or testimony was received. The Department amended six rules as proposed. The amendments were generally housekeeping in nature by replaced the term "nonbusiness income" with "nonapportionable income" to align rule language statutory changes made during the 2017 legislative session while striking redundancies and outdated language. A second amendment provides guidance to taxpayers on the election to forgo a net operating loss carryback when filing an amended return. A final amendment clarified how corporations are determined for inclusion in a water's-edge combined report by including unitary partnerships and disregarded entities in determination.

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